REMARKS

On page 2 of the Office Action, the Examiner rejected claims 71 and 85 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,317,719 to Schrier et al. (Schrier '719). Applicant respectfully traverses this rejection.

Applicant submits hereto a Declaration under 37 C.F.R. § 1.131. Applicant's declaration includes attachments of actual presentation handouts with corroborating material, bearing dates thereon, to support existence of said handouts prior to the effective date of the Schrier et al. reference. This Declaration further supports Applicant's position that it antedates the Schrier et al. reference and that there is diligence from at least prior to Schrier et al. to the filing of the present application.

Specifically, it is clear that the present Declaration under 37 C.F.R. § 1.131 and attached documents establish conception of the claimed subject matter of claims 71 and 85 prior to the Schrier et al. reference filing date of December 13, 1993.

Attached to this reply is an Addendum of Claims 71 and 85 setting forth each of the elements of claims 71 and 85 and respectfully pointing out to the Examiner where each element is on the submitted documents under the present Declaration under 37 C.F.R. § 1.131, referenced by the page numbers of the materials submitted under the present declaration. These documents support that each element of claims 71 and 85 has a date of conception prior to the Schrier et al. reference. Applicant believes the present Declaration under 37 C.F.R. § 1.131 is sufficient to overcome each of the rejections raised by the Examiner at page 2 of the January 5, 2004 Office Action. In addition, Applicant has specifically set forth factual evidence supporting diligence by the Applicant from a date prior to the Schrier's earliest filing date of December 13, 1993 through

Applicant's filing date of December 28, 1994. In addition to the facts and documents submitted

under the present Declaration under 37 C.F.R. § 1.131, Applicant has stated that additional

documents do exist but are not within Applicant's possession or control at the present time,

therefore explaining why those documents are not presently available. See M.P.E.P. 715.

In view of the fact that the present Declaration under 37 C.F.R. § 1.131 supports

conception prior to Schrier et al and diligence from prior to the filing date of Schrier et al. to

Applicant's filing date, Applicant has not addressed the Section 102 rejections and the 103

rejections based on Schrier et al. primary reference since Applicant invented the invention prior

to Schrier et al.

Conclusion

Having analyzed the objections cited against the claims, it is urged that the present claims are in condition for allowance. A favorable reconsideration is requested. The Examiner is invited to contact the undersigned attorney to discuss any matters pertaining to the present application.

The Commissioner is hereby authorized to charge any fees which may be required in the prosecution of this application to Deposit Account No. 18-2262.

Respectfully submitted,
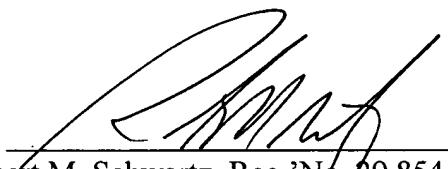
June 7, 2004

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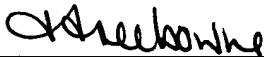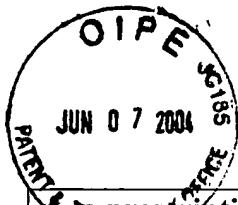
ADDENDUM FOR CLAIM 85

	A prescription creation screen display, permitting prescriber-operable data capture of information including:
POL 02237	It has an easy-to-use, menu-driven, "Graphical-User-Interface" (GUI) . . .
POL 02242	SERVICE WORKSPACE (User-Defined Scrollable Region)
POL 02247	devices that intelligently assist users in capturing, retrieving, organizing, and communicating information and ideas – convenient mobile access . . . Prescription Management System. Using pen-based operating systems, PDAs can understand handwritten commands and can be used for freeform notetaking, drawing, calculating, scheduling, list making, and communicating. allow remote sending and receiving . . . other electronic documents.
POL 02271	target physicians based on their prescriber-level database. a prescriber-level prescription data provider . . . computers with cellular data network capabilities. We are well-positioned to offer prescription fulfillment services and thus become an independent source of prescriber-level prescription data in addition to our psychometric data. automating both the fulfillment process . . .
POL 02273	Physicians' Online terminals and dedicated software are clearly of educational value . . . By connecting medical professionals, pharmaceutical companies, pharmacies, medical information & service providers, hospitals, laboratories, offices, insurance companies, and, ultimately, patients, with a national electronic communications network . . . Prescription fulfillment services, prescription data, pharmaceutical marketing services, patient laboratory data, insurance claims processing, personal pager services, communications services, FAX networks, etc. will all be within easy striking distance.
POL 03779	Rx [artwork]
POL 03780	Welcome to . . . A Personal Online Medical Information and Communications Service for Member Physicians
POL 03781	• On-Site Terminal Base . . . • MD Society Support • Rx Industry Support • Prescriber-level Targeting . . . • "Smart Prescription Pads" . . . • Prescriber Assistance Prgm

FTL:1225649:1

	• National Online Formularies • Rx Fulfillment Network . . . • Prescription Data
POL03545	• Prescriber's 1st Choice • Alternatives • Patient's Formulary Prescription Patient-Specific Formularies Organization-Specific Formularies National Formulary Standard Therapeutic Equivalents Pharmaceutical Data
POL 03548	Prescription Patient-Specific Formulary Organization-Specific Formularies National Formulary Standard Therapeutic Equivalents Pharmaceutical Data
THB 06017	Online prescription fulfillment and cost containment programs made possible through the use of "Smart Electronic Prescription Pads" . . .hospitals, pharmacists, pharmaceutical distributors . . .
THB 06036	electronic transmission of prescriptions to pharmacists, and online access to other information and services.

i.	patient identifying data;
THB 06010	PPN is designed to integrate with claims processing information requirements. PPN is designed to access patient record information.
THB 06012	PPN links the physician with the various formularies through an electronic prescription pad ("Smart Script") which helps the physician identify the preferred prescription choice at the point of prescription writing . . . continuous updating of formularies . . . seamless integration into the prescription writing process. he is made aware of any therapeutic alternatives at the appropriate time. 3. Electronic Transmission of Prescriptions to Pharmacists: Through the link with the pharmaceutical benefit programs, the patient can direct the prescription to the retail or mail-order distribution outlet of their choice. This linkage will eliminate paper and patient time at the pharmacy. 4. Online access to other information and services: In addition, the pharmaceutical benefit programs can create additional services through the link with the physician. These services can include full drug information, patient eligibility verification, patient instructions, sample ordering, refill alerts, and

2

	step therapy alternatives.
THB 06015	Develop Smart Script Software • Feature Design • Integration of Patient Record & Claims Processing
THB 06017	Online prescription fulfillment and cost containment programs made possible through the use of "Smart Electronic Prescription Pads" . . .hospitals, pharmacists, pharmaceutical distributors . . .
THB 06036	electronic transmission of prescriptions to pharmacists, and online access to other information and services.
POL 02243	<5> Patient Information
POL 02247	notetaking . . . calculating, scheduling, list making, and communicating.
POL 02271	source of prescriber-level prescription data in addition to our psychometric data.
POL 03545	Patient's Formulary Patient-Specific Formulary
POL 03548	[artwork] Patient-Specific Formulary

ii.	prescribed drug identification data;
THB 06010	PPN provides prescription drug benefits providers, retail pharmacists and mail order suppliers with an ability to offer new products/services.
THB 06011	Unless a patient has a medical need for a different drug, the most effective and lowest-cost option is the preferred prescription choice.
THB 06012	These services can include full drug information...
POL 03779	Rx [artwork]
POL 03780	A personal Online Medical Information and Communications Service for Member Physicians [artwork]
POL 03781	• "Smart Prescription Pads" . . . • Rx Fulfillment Network . . . • Prescription Data . . .
POL 03545	[artwork] Prescriber's 1st Choice Prescription Pharmaceutical Data
POL 03548	Prescription Patient-Specific Formulary Organization-Specific Formularies

	National Formulary Standard Therapeutic Equivalents Pharmaceutical Data
POL 02246	Drug Info Queries . . . DRUG INFO Modules . . . Network Functions . . .
POL 02247	notetaking, drawing, calculating, scheduling, list making, and communicating.
POL 02248	(including relevant formularies, price lists, drug information, and potential drug interactions) . . . automate the prescription-writing, tracking, and fulfillment process . . .
POL 02261	Complete Drug Information ... YES . . .
POL 02271	New Source for Prescriber-level Prescription Data prescriber-level prescription data . . .
POL 02273	prescription data . . .

iii.	drug quantification data;
THB 06036	electronic transmission of prescriptions to pharmacists, and online access to other information and services.
POL 02247	freeform notetaking, drawing, calculating, scheduling, list making, and communicating.
POL 02248	(including relevant formularies, price lists, drug information, and potential drug interactions) . . . automate the prescription-writing, tracking, and fulfillment process . . .
POL 02271	prescription fulfillment services . . . prescriber-level prescription data . . .

iv.	a patient condition data capture device for capturing patient condition data regarding the patient condition exhibited by the patient wherein the electronic prescription further comprises the patient condition data; and
THB 06010	PPN is designed to access patient record information.
THB 06017	drug information . . . hospitals, pharmacists . . . and other health-care participants.
POL 02243	<5> Patient Information
POL 02271	prescriber-level prescription data . . .

b.	a library of prescribable drug data accessible from the prescription creation screen to display multiple prescribable drugs; and
THB 06010	PPN provides prescription drug benefits providers, retail pharmacists and mail order suppliers with an ability to offer new products/services.
THB 06011	the physician is given a choice of drugs to prescribe.
THB 06012	full drug information . . .
POL 03545	• Alternatives National Formulary Standard . . .

4

	Pharmaceutical Data
POL 03548	National Formulary Standard Therapeutic Equivalents
POL 03549	• To position physicians to implement self-administered <u>patient-specific</u> therapeutic cost-containment . . . • To facilitate self-administered <u>patient-specific</u> therapeutic cost-containment by physicians . . . • Develop National Online Formularies with . . .
POL 02236	<3> Drug Information (USP) • libraries, . . .
POL 02246	Drug Info Queries . . . DRUG INFO Modules . . . Network Functions . . .
POL 02248	(including relevant formularies . . . drug information . . .
POL 02261	Complete Drug Information . . . YES . . .
POL 02273	Prescription fulfillment services . . . pharmaceutical marketing services . . .

c.	a prescription output screen device to output a completed prescription;
THB 06012	PPN links the physician with the various formularies through an electronic prescription pad . . . prescription choice at the point of prescription writing. while the physician is writing a prescription, he is made aware of any therapeutic alternatives at the appropriate time. the patient can direct the prescription to the retail or mail-order distribution outlet of their choice. additional services . . . full drug information . . . step therapy alternatives.
THB 06036	These tools include an online formulary, online prospective drug utilization review . . .
POL 02246	Custom Reports . . . User Preferences . . . Customized Output . . . User Functions . . . Future Online Product Modules . . . Network Functions

5

ADDENDUM FOR CLAIM 71

a. a prescription creation screen display, permitting prescriber-operable data capture devices including:	
POL 02237	It has an easy-to-use, menu-driven, "Graphical-User-Interface" (GUI) . . .
POL 02242	SERVICE WORKSPACE (User-Defined Scrollable Region)
POL 02247	devices that intelligently assist users in capturing, retrieving, organizing, and communicating information and ideas – convenient mobile access . . . Prescription Management System. Using pen-based operating systems, PDAs can understand handwritten commands and can be used for freeform notetaking, drawing, calculating, scheduling, list making, and communicating. allow remote sending and receiving . . . other electronic documents.
POL 02271	target physicians based on their prescriber-level database. a prescriber-level prescription data provider . . . computers with cellular data network capabilities. We are well-positioned to offer prescription fulfillment services and thus become an independent source of prescriber-level prescription data in addition to our psychometric data. automating both the fulfillment process . . .
POL 02273	Physicians' Online terminals and dedicated software are clearly of educational value . . . By connecting medical professionals, pharmaceutical companies, pharmacies, medical information & service providers, hospitals, laboratories, offices, insurance companies, and, ultimately, patients, with a national electronic communications network . . . Prescription fulfillment services, prescription data, pharmaceutical marketing services, patient laboratory data, insurance claims processing, personal pager services, communications services, FAX networks, etc. will all be within easy striking distance.
POL 03779	Rx [artwork]
POL 03780	Welcome to . . . A Personal Online Medical Information and Communications Service for Member Physicians
POL 03781	• On-Site Terminal Base . . . • MD Society Support • Rx Industry Support • Prescriber-level Targeting . . . • "Smart Prescription Pads" . . . • Prescriber Assistance Prgm

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	• National Online Formularies • Rx Fulfillment Network . . . • Prescription Data
POL03545	• Prescriber's 1st Choice • Alternatives • Patient's Formulary Prescription Patient-Specific Formularies Organization-Specific Formularies National Formulary Standard Therapeutic Equivalents Pharmaceutical Data
POL 03548	Prescription Patient-Specific Formulary Organization-Specific Formularies National Formulary Standard Therapeutic Equivalents Pharmaceutical Data
THB 06017	Online prescription fulfillment and cost containment programs made possible through the use of "Smart Electronic Prescription Pads" . . .hospitals, pharmacists, pharmaceutical distributors . . .
THB 06036	electronic transmission of prescriptions to pharmacists, and online access to other information and services.

i. patient identifying data;	
THB 06010	PPN is designed to integrate with claims processing information requirements. PPN is designed to access patient record information.
THB 06012	PPN links the physician with the various formularies through an electronic prescription pad ("Smart Script") which helps the physician identify the preferred prescription choice at the point of prescription writing . . . continuous updating of formularies . . . seamless integration into the prescription writing process. he is made aware of any therapeutic alternatives at the appropriate time. 3. Electronic Transmission of Prescriptions to Pharmacists: Through the link with the pharmaceutical benefit programs, the patient can direct the prescription to the retail or mail-order distribution outlet of their choice. This linkage will eliminate paper and patient time at the pharmacy. 4. Online access to other information and services: In addition, the pharmaceutical benefit programs can create additional services through the link with the physician. These services can include full drug information, patient eligibility verification, patient instructions, sample ordering, refill alerts, and

2

	step therapy alternatives.
THB 06015	Develop Smart Script Software • Feature Design • Integration of Patient Record & Claims Processing
THB 06017	Online prescription fulfillment and cost containment programs made possible through the use of "Smart Electronic Prescription Pads" . . .hospitals, pharmacists, pharmaceutical distributors . . .
THB 06036	electronic transmission of prescriptions to pharmacists, and online access to other information and services.
POL 02243	<5> Patient Information
POL 02247	notetaking . . . calculating, scheduling, list making, and communicating.
POL 02271	source of prescriber-level prescription data in addition to our psychometric data.
POL 03545	Patient's Formulary Patient-Specific Formulary
POL 03548	[artwork] Patient-Specific Formulary

ii.	prescribed drug identification data;
THB 06010	PPN provides prescription drug benefits providers, retail pharmacists and mail order suppliers with an ability to offer new products/services.
THB 06011	Unless a patient has a medical need for a different drug, the most effective and lowest-cost option is the preferred prescription choice.
THB 06012	These services can include full drug information...
POL 03779	Rx [artwork]
POL 03780	A personal Online Medical Information and Communications Service for Member Physicians [artwork]
POL 03781	• "Smart Prescription Pads" . . . • Rx Fulfillment Network . . . • Prescription Data . . .
POL 03545	[artwork] Prescriber's 1st Choice Prescription Pharmaceutical Data
POL 03548	Prescription Patient-Specific Formulary Organization-Specific Formularies

3

	National Formulary Standard Therapeutic Equivalents Pharmaceutical Data
POL 02246	Drug Info Queries . . . DRUG INFO Modules . . . Network Functions . . .
POL 02247	notetaking, drawing, calculating, scheduling, list making, and communicating.
POL 02248	(including relevant formularies, price lists, drug information, and potential drug interactions) . . . automate the prescription-writing, tracking, and fulfillment process . . .
POL 02261	Complete Drug Information ... YES . . .
POL 02271	New Source for Prescriber-level Prescription Data prescriber-level prescription data . . .
POL 02273	prescription data . . .

iii. drug quantification data;	
THB 06036	electronic transmission of prescriptions to pharmacists, and online access to other information and services.
POL 02247	freeform notetaking, drawing, calculating, scheduling, list making, and communicating.
POL 02248	(including relevant formularies, price lists, drug information, and potential drug interactions) . . . automate the prescription-writing, tracking, and fulfillment process . . .
POL 02271	prescription fulfillment services . . . prescriber-level prescription data . . .

iv. information regarding prescribability of a drug pursuant to formulary guidelines, the information being formulary-qualified according to the patient condition; and	
POL 03545	Patient's formulary Patient-Specific Formularies Pharmaceutical Data
POL 03548	Patient-Specific Formulary Pharmaceutical Data
POL 02248	(including relevant formularies . . . drug information . . .)
THB 06036	These tools include an online formulary . . .
THB 06010	Formularies are continuously updated PPN is designated to access patient record information
THB 06012	Online Formulary PPN links the physician with the various formularies through an electronic prescription pad . . . prescription choice at the point of prescription writing.
POL 02243	USP Drug Info

4

	Patient Information
POL 02271	Source of prescriber-level prescription data

b. **a library of prescribable drug data accessible by one or more of said data capture devices from said prescription management screen to display multiple prescribable drugs; and**	
THB 06010	PPN provides prescription drug benefits providers, retail pharmacists and mail order suppliers with an ability to offer new products/services.
THB 06011	the physician is given a choice of drugs to prescribe.
THB 06012	full drug information . . .
POL 03545	• Alternatives National Formulary Standard . . . Pharmaceutical Data
POL 03548	National Formulary Standard Therapeutic Equivalents
POL 03549	• To position physicians to implement self-administered patient-specific therapeutic cost-containment . . . • To facilitate self-administered patient-specific therapeutic cost-containment by physicians . . . • Develop National Online Formularies with . . .
POL 02236	<3> Drug Information (USP) • libraries, . . .
POL 02246	Drug Info Queries . . . DRUG INFO Modules . . . Network Functions . . .
POL 02248	(including relevant formularies . . . drug information . . .
POL 02261	Complete Drug Information . . . YES . . .
POL 02273	Prescription fulfillment services . . . pharmaceutical marketing services . . .

c. **drug formulary information identifying at least one of multiple drugs as a patient's drug formulary preferences to enable selection by the prescriber of a benefit plan recommended drug;**	
POL 03545	Prescriber's 1st Choice Alternatives Patient's Formulary Patient-Specific Formularies
POL 03548	Patient-Specific Formulary
POL 02248	(including relevant formularies . . .)

5

| THB 06036 | These tools include an online formulary . . . |